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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,825	05/29/2002	John Jones	MCAW-148	5777
23290	7590	07/08/2005	EXAMINER	
HOLLANDER LAW FIRM, P.L.C. SUITE 305 10300 EATON PLACE FAIRFAX, VA 22030			SWEARINGEN, JEFFREY R.	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.	JONES, JOHN	
10/031,825	Examiner	Art Unit
	Jeffrey R. Swearingen	2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 29 May 2002.  
2a) This action is FINAL.                            2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 1-25 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on 29 May 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. The preliminary amendment of January 22, 2002 has been entered.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Herz (U.S. Patent No. 6,029,195).

4. In regard to claim 1, Herz discloses a *method of facilitating contact between one or more resources and users on a network wherein personal profiles are allocated to the user, the or each of the said resources has a code, and at least one said code is matched with a predetermined said profile thereby to effect or influence contact between the or each of the said resources and the or each of the said users associated with the said matched code and profile*. Herz discloses a method of analyzing user data requests and building a profile, which is matched with target objects. See Herz, column 10, lines 29-55.

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5. In regard to claim 2, Herz is applied as in claim 1. Herz further discloses *wherein the network is the Internet*. See Herz, column 80, lines 57-60.
6. In regard to claim 3, Herz is applied as in claim 1. Herz further discloses *wherein each user profile contains exclusively data of a general nature and does not contain data capable of uniquely identifying that user*. See Herz, column 5, lines 35-61, which describes what data the user can hide and choose to disclose in the profile, thereby ensuring privacy and allowing the user to store data of a general nature and preventing identifying the user.
7. In regard to claim 7, Herz is applied as in claim 1. Herz further discloses *wherein each user profile is established using software requiring the user to respond to queries*. In the Herz invention, each user is consulted on "target objects" where a user's "relevance feedback" for a specific object is used to profile a user. See Herz, column 28, lines 40-66.
8. In regard to claim 8, Herz is applied as in claim 1. Herz further discloses *wherein each user profile comprises a data set made up of separate data nuggets representing different personal attributes of the user*. See Herz, column 10, lines 37-56. See Herz, column 13, lines 43-67. See Herz, column 18, lines 10-61. See Herz, column 19, lines 8-28.
9. In regard to claim 9, Herz is applied as in claim 8. Herz further discloses *wherein the nuggets are grouped as sub-sets of characteristics of the user*. See Herz, column 42, lines 15-41.
10. In regard to claim 12, Herz is applied as in claim 1. Herz further discloses *wherein a matching intermediately (sic) is used for matching profiles and codes*. See Herz, column 40, lines 61-67. See Herz, column 41, lines 5-21.
11. In regard to claim 13, Herz is applied as in claim 3. Herz further discloses *wherein the resources are web sites*. Herz describes a method of linking websites to user interests. See Herz, column 7, lines 19-51. See Herz, column 8, lines 18-21. See Herz, column 10, lines 8-11.
12. In regard to claim 17, Herz is applied as in claim 13. Herz further discloses *wherein the result of the matching of a user's profile and a resource web site code is such as to direct the user to the resource web site*. See Herz, column 10, lines 8-11.

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13. In regard to claim 18, Herz is applied as in claim 13. Herz further discloses *wherein the result of the matching of a user's profile and a resource web site code is such as to influence information presented to the user at the resource web site*. See Herz, column 20, lines 49-65. See Herz, column 30, lines 42-67.

14. In regard to claim 19, Herz is applied as in claim 1. Herz further discloses *wherein the matching of a user's profile and a resource code is effected using a mask whereby a match is achieved when mask parameters are met to a predetermined extent or within a predetermined range*. Herz describes a lengthy method of determining how close the target object is to the user profile. See Herz, columns 15-29 for an in-depth explanation on the similarity profiling and how close a target object needs to match a user profile.

15. In regard to claim 20, Herz is applied as in claim 19. Herz further discloses *wherein the matching is effected in relation to correlation of the user's profile with codes hierarchically divided within catalogue entries whereby matching is aborted on occurrence of a higher level matching failure within the hierarchy*. Herz discloses matching user profiles to target objects by using a hierarchical cluster tree. See Herz, column 70, lines 37-67.

16. In regard to claim 21, Herz is applied as in claim 18. Herz further discloses *wherein the matching Internet web site acts to effect said influence*. See Herz, column 67, lines 30-66. See Herz, column 70, lines 1-36.

17. In regard to claim 22, Herz is applied as in claim 21. Herz further discloses *wherein the influence comprises construction and presentation of a customised web page*. See Herz, column 70, lines 1-35.

18. In regard to claim 24, Herz is applied as in claim 1. Herz further discloses *a network, resource servers connected to the network, local user network equipment to provide access to the network for users, and at least one intermediary server connected to the network and operable to match user profiles with resource server codes*. See Herz, Figure 2.

***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herz.

21. In regard to claims 4-6, Herz is applied as in claim 1. Herz discloses storing a user profile.

However, Herz fails to disclose that the *user profile is stored only in network equipment under control of that user, each user profile is stored in that user's own local equipment used for access to the network, and the local equipment comprises a PC*. Official Notice is taken that a file can be stored anywhere on a network, including exclusively on a PC that the user uses locally for network access, since files can be accessed across a network and networks are designed for communication and file sharing. Therefore it would be obvious to one of ordinary skill in the art to store the Herz user profiles anywhere, including exclusively on a local PC to the user.

22. In regard to claim 10, Herz is applied as in claim 9. Herz discloses storing *characteristics* of a user. However, Herz fails to explicitly disclose the user of *32 characteristics*. It would be obvious to one of ordinary skill in the art to store any number of characteristics in the Herz invention to provide the most accurate profiling as required by the development implemented by one of ordinary skill in the art.

23. In regard to claim 11, Herz is applied as in claim 10. Herz discloses storing a user profile but fails to disclose storing *32 characteristics wherein each characteristics (sic) has a group of 16 nuggets*. However, it would be obvious to one of ordinary skill in the art to store any amount of data in the Herz invention necessary to match the target objects to the user profiles, including *32 characteristics wherein each characteristics (sic) has a group of 16 nuggets*.

24. In regard to claim 23, Herz is applied as in claim 22. Herz fails to disclose the presentation of a customised web page in a frame. However, Official Notice is taken that presenting web pages in frames is well known in HTML coding and has existed long before the statutory bar for the priority date of this application. Therefore it would be obvious to one of ordinary skill in the art to use the Herz invention with frames on a web page.

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25. Claims 14-16 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz in view of Hobbs (U.S. Patent No. 6,523,022).

26. In regard to claims 14-16 and 25, Herz is applied as in claims 13 and 24. Herz fails to disclose the use of a search engine to match user profiles with content. However, Hobbs discloses the use of search engines to sort content for a user based upon their preferences. See Hobbs, column 4, lines 38-64. See Hobbs, column 7, lines 53-66. See Hobbs, column 18, lines 22-48. It would be obvious to one of ordinary skill in the art to use the search engine of Hobbs with the profiling system of Herz because both are analogous systems dealing with matching user profiles with content and for the purpose of delivering content to users without having to train them how to access said content. [Hobbs, column 10, lines 29-34] Herz gives motivation by stating that a user should be able to access information of relevance and interest to the user without requiring the user to expend an excessive amount of time and energy. [Herz, column 4, lines 28-33]

### ***Conclusion***

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Eichstaedt et al.	U.S. Patent No. 6,6,54,735	Nov. 25, 2003
Gupta et al.	U.S. Patent No. 6,487,538	Nov. 26, 2002
Burge et al.	U.S. Patent No. 6,014,638	Jan. 11, 2000
Gerace	U.S. Patent No. 5,848,396	Dec. 8, 1998
Davis et al.	U.S. Patent No. 5,796,952	Aug. 18, 1998
Collins	U.S. Patent No. 5,963,951	Oct. 5, 1999
Welsh et al.	U.S. Patent No. 6,757,691	Jun. 29, 2004
Geller	U.S. Patent No. 6,199,067	Mar. 6, 2001
Baber et al.	U.S. Patent No. 6,195,696	Feb. 27, 2001
Handel et al.	U.S. Patent No. 6,195,651	Feb. 27, 2001
Lazarus et al.	U.S. Patent No. 6,134,532	Oct. 17, 2000

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Jacobi et al.	U.S. Patent No. 6,064,980	May 16, 2000
Nielsen et al.	U.S. Patent No. 6,055,542	Apr. 25, 2000
Kurtzman, II	U.S. Patent No. 6,044,376	Mar. 28, 2000

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 571-272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*JRS**V. Martin Wallace*

VALENCIA MARTIN-WALLACE  
SUPERVISORY PATENT EXAMINER